

Title 23: TRANSPORTATION

Chapter 24: MAINE TURNPIKE

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Maine Revised Statutes
Title 23: TRANSPORTATION
Chapter 24: MAINE TURNPIKE

§1961. LEGISLATIVE FINDINGS; COOPERATION WITH THE DEPARTMENT OF TRANSPORTATION; BONDS; GOVERNMENTAL FUNCTION

1. Legislative findings. The Legislature makes the following findings of fact. The economic and social well-being of the citizens of the State requires that the transportation system be developed in a comprehensive manner and depends upon the safety, efficiency and modern functional state of the turnpike. The turnpike should be maintained as a toll facility whether or not there are turnpike bonds outstanding. Toll revenues should be utilized to pay for retirement of any outstanding debt, including interest thereon; to pay for operation and maintenance of the turnpike; to pay for reconstruction of the turnpike; and to repay the Federal Government for grants or loans, the proceeds of which were used for the construction or reconstruction of the turnpike or portions of the turnpike, interchanges and certain interconnecting access roads, but only to the extent that the repayment is required as a result of maintaining tolls on the turnpike.

[1993, c. 116, §1 (AMD) .]

2. Cooperation with the Department of Transportation. The authority may issue bonds or other obligations to pay for department projects. These amounts are considered necessary for use by the department for construction, reconstruction, operation and maintenance of all roads on the state highway system, which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike and its users have received and will continue to receive a benefit from, or have caused and will continue to cause, or both, the State acting by and through the department to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly be and should be compensated from the tolls to be collected. The authority must be maintained to carry out the purposes of this chapter in cooperation with the department.

[2011, c. 302, §2 (AMD) .]

3. Bonds. It is the expectation of the Legislature that, by July 1, 1982, all bonds outstanding on June 1, 1981, and the interest on the bonds will be paid or a sufficient amount for the payment of all bonds and the interest to maturity on the bonds will be set aside in trust for the benefit of the bondholders and shall continue to be held for that purpose. It is the expectation of the Legislature that further bonds will have to be issued for the purposes provided in this section. It is expected that tolls on the turnpike will have to be increased to implement this chapter.

[1987, c. 793, Pt. A, §6 (NEW) .]

4. Governmental function. It is declared that the purposes of this chapter are public and that the authority shall be regarded as performing a governmental function in carrying out this chapter.

[1987, c. 793, Pt. A, §6 (NEW) .]

5. Transportation policy. Transportation planning decisions, capital investment decisions and project decisions of the Maine Turnpike Authority are governed by and must comply with the transportation policy set forth in section 73 and rules implementing that policy.

[1991, c. 1, §3 (NEW) .]

6. Appropriation. On or before January 31st of each year, the authority shall present to each regular session of the Legislature for its approval the authority's revenue fund budget for the calendar year that begins after the adjournment of that regular session and shall present to each regular session of the Legislature for informational purposes a statement of the revenues necessary during the next calendar year to fund capital expenditures and reserves and to meet the requirements of any resolution authorizing bonds of the authority, including debt service and the maintenance of reserves for debt service and reserve maintenance. The authority shall present a detailed budget of expenditures from the authority's reserve maintenance fund for the next calendar year and shall include cross-references to show the total of similar expense categories that are paid from both the revenue and reserve maintenance funds. The authority may only pay revenue fund operating expenses in accordance with allocations approved by the Legislature or as necessary to satisfy the requirements of any resolution authorizing bonds of the authority. If alterations to the authority's revenue fund budget are needed, they must be reported by financial order to the joint standing committee of the Legislature having jurisdiction over transportation matters.

[2011, c. 302, §3 (AMD) .]

7. Funds for department projects. As part of the budget presented in subsection 6, the authority shall allocate funds for department projects in an amount such that the 3-year rolling average of the allocation equals at least 5% of annual operating revenues. The requirement under this subsection is subordinate to the authority's obligation to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the authority. All department projects are subject to mutual agreement of the authority and the department.

For purposes of this subsection, annual operating revenues do not include any interest earned from the authority's capital and debt service reserve funds or the amount of tolls or other income that is discounted, rebated or refunded by the authority.

[2011, c. 476, §1 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1987, c. 457, §1 (AMD). 1987, c. 793, §A6 (RPR). IB 1991, c. 1, §§2,3 (AMD). 1991, c. 9, §E14 (AMD). 1993, c. 116, §1 (AMD). 1993, c. 563, §1 (AMD). 1993, c. 680, §A24 (AMD). 1995, c. 504, §C1 (AMD). 1995, c. 613, §1 (AMD). 1995, c. 613, §7 (AFF). 2011, c. 302, §§2-4 (AMD). 2011, c. 476, §1 (AMD).

§1962. PRESERVATION OF RIGHTS

No provision of this chapter may impair the rights of existing bondholders or of any other persons to whom the authority owes contractual obligations. [1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1963. MAINE TURNPIKE AUTHORITY

In order to carry out the purposes of this chapter, the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, continues in existence with the powers and duties prescribed by this chapter until the Legislature provides for its termination and all outstanding indebtedness of the authority is repaid,

or an amount sufficient to repay that indebtedness is set aside in trust. The authority shall continue to operate and maintain the turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County. The authority may operate and maintain other property and assets as are necessary or convenient for the construction, operation or maintenance of the turnpike, including, but not limited to, connecting tunnels, bridges, overpasses, underpasses, interchanges, toll facilities and parking lots. [2011 , c. 476 , §2 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1993, c. 410, §MM1 (AMD). 2011, c. 476, §2 (AMD) .

§1964. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 595, §3 (NEW) .]

1. Access roads. "Access roads" means any and all roads or highways in the state highway system, including bridges, overpasses and underpasses, which directly or indirectly connect with the turnpike and which shall have been designated as such by the Department of Transportation.

[1981, c. 595, §3 (NEW) .]

2. Authority. "Authority" means the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, and continued in existence by this chapter.

[1981, c. 595, §3 (NEW) .]

2-A. Away agency. "Away agency" means a tolling authority in a jurisdiction other than the State that imposes an administrative fee or a civil liability on the registered owner of a vehicle whose operator fails to pay a required toll for the use of a highway, bridge or tunnel.

[2011, c. 302, §5 (NEW) .]

2-B. Board. "Board" means the board of directors of the authority established pursuant to section 1964-A.

[2011, c. 302, §5 (NEW) .]

3. Bond. "Bond" or "bonds" means and includes a bond or note or other evidence of indebtedness authorized under this chapter whether issued under or pursuant to a bond resolution, trust indenture or loan or other security agreement.

[1981, c. 595, §3 (NEW) .]

4. Department. "Department" or "Department of Transportation" means the State Department of Transportation or its successor.

[1981, c. 595, §3 (NEW) .]

4-A. Department project. "Department project" means the rehabilitation, reconstruction or construction of any highway or bridge on the state highway system determined by the department and the authority to have a sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6 and is a project or allocation to:

A. Build or improve an interchange; [2011, c. 302, §6 (NEW) .]

B. Maintain, build or improve an access road; [2011, c. 302, §6 (NEW) .]

C. Study or plan a future highway corridor and study related issues; [2011, c. 302, §6 (NEW) .]

D. Maintain, build or improve a park and ride lot or other transportation infrastructure for all modes of transportation relating to turnpike use; [2011, c. 302, §6 (NEW) .]

E. Purchase, lease or improve highway-related infrastructure; or [2011, c. 302, §6 (NEW) .]

F. Pay debt incurred by the authority for any capital project purpose in paragraphs A to E. [2011, c. 302, §6 (NEW) .]

[2011, c. 302, §6 (AMD) .]

5. Interchange. "Interchange" means a system of interconnecting roadways in conjunction with one or more points of separation, providing for the interchange of traffic between 2 or more roadways or highways, one of which is the turnpike and includes sufficient lengths of intersecting roadways required for conformance with then current road design standards or standards acceptable to the Department of Transportation.

[1981, c. 595, §3 (NEW) .]

5-A. Intermodal transportation facility. "Intermodal transportation facility" means any facility, including but not limited to any rail or bus depot or station, taxi stand, loading platform, parking lot and any related building or appurtenance, located on or adjacent to the turnpike or in the immediate vicinity of any turnpike interchange, that is designed to serve the needs of users of 2 or more modes of transportation including the turnpike and that the authority determines necessary or convenient to meet the needs of users of the turnpike.

[1993, c. 410, Pt. MM, §2 (NEW) .]

5-B. Law enforcement officer. "Law enforcement officer" means a person who by virtue of public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

[1995, c. 339, §1 (NEW) .]

6. Operating revenues. "Operating revenues" means income of the Maine Turnpike Authority from fees, fares, tolls, rental of concessions and miscellaneous revenue and interest.

[2011, c. 476, §3 (AMD) .]

6-A. Operating surplus.

[2011, c. 302, §7 (RP) .]

7. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any and all activities undertaken to maintain the Maine Turnpike, or any part thereof, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the turnpike or any part thereof which the authority deems necessary to continuously, adequately, safely and swiftly facilitate vehicular traffic upon, to or from the Maine Turnpike.

[1981, c. 595, §3 (NEW) .]

7-A. Reserve maintenance fund. "Reserve maintenance fund" means a fund established by a resolution authorizing bonds of the authority as a source to pay for turnpike maintenance, turnpike rehabilitation, insurance, emergency repairs of the turnpike, remediation of turnpike deficiencies and other perennial costs and selected capital projects as recommended by a consulting engineer.

[2011, c. 302, §8 (NEW) .]

7-B. Revenue fund. "Revenue fund" means a fund established by a resolution authorizing bonds of the authority as the initial depositary for all operating income of the authority; certain operating expenses, defined by bond resolutions, are paid from the revenue fund before further transfers are made to funds for debt service, reserve maintenance and general reserves.

[2011, c. 302, §8 (NEW) .]

8. State highway system. "State highway system" or "state highways" shall include all classes of roads set forth in section 53.

[1981, c. 595, §3 (NEW) .]

9. Turnpike. "Turnpike" means the roadway constructed between Kittery in York County and Augusta in Kennebec County pursuant to Private and Special Law 1941, chapter 69, sections 1 to 20, as amended, together with any expansion or extension of that roadway that is authorized by law, and includes not only the roadway and all rights-of-way, bridges, tunnels, overpasses, underpasses and interchanges either on the roadway or connected to or connecting with the roadway as expanded or extended, but also all buildings, toll facilities and other equipment, median barriers, shoulders, embankments, property rights, easements, leases and franchises relating to the roadway and such rights-of-way bridges, tunnels, overpasses, underpasses and interchanges and determined necessary or convenient for the construction, reconstruction, operation or maintenance of the turnpike.

[1993, c. 410, Pt. MM, §3 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). IB 1991, c. 1, §4 (AMD). 1993, c. 410, §§MM2,3 (AMD). 1995, c. 339, §1 (AMD). 1995, c. 504, §§C2,3 (AMD). 1995, c. 613, §2 (AMD). 1995, c. 613, §7 (AFF). 2011, c. 302, §§5-8 (AMD). 2011, c. 476, §3 (AMD).

§1964-A. BOARD OF DIRECTORS

The authority is managed by a board of 7 members. Except for the member from the department who serves ex officio, all members are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate. [2011, c. 302, §9 (NEW).]

1. Qualifications. The 7 members of the board are as follows:

A. The Commissioner of Transportation or the commissioner's designee from within the department, who serves ex officio; [2011, c. 302, §9 (NEW).]

B. Four members, one each from York, Cumberland, Androscoggin and Kennebec counties who serves as the representative from the county in which the member resides; and [2011, c. 302, §9 (NEW).]

C. Two at-large members who are residents of the State. [2011, c. 302, §9 (NEW).]

[2011, c. 302, §9 (NEW) .]

2. Term. Each appointed member holds office for 6 years or until a qualified successor has been confirmed. Each term expires on March 31st of the last year of the term. The terms of the appointed members must be staggered so that no more than one term expires in any given year.

[2011, c. 302, §9 (NEW) .]

3. Vacancy. A member's term is vacated if the member dies, resigns, becomes incapacitated, is removed for cause or no longer meets a requirement under which the member was appointed. By majority vote of the remaining members, the board may declare and bring to the Governor's attention any circumstances creating a vacancy. When a vacancy occurs, the Governor may appoint a member to serve only for the unexpired portion of the term vacated.

[2011, c. 302, §9 (NEW) .]

4. Removal. The Governor may remove a member from the board only for gross misconduct. For purposes of this subsection, "gross misconduct" means financial malfeasance, a deliberate or reckless failure to attend to duties required for governance of the authority or unexcused absences from 4 or more meetings of the board in a 12-month period.

[2011, c. 302, §9 (NEW) .]

5. Chair. The Governor may appoint the chair from among members appointed to the board. In the absence of such appointment or if the position of chair is vacated, the board may elect a chair from among the members of the board. The chair must be appointed or elected for a one-year term at the board's annual meeting.

[2011, c. 302, §9 (NEW) .]

6. Annual meetings; quorum; action. The board shall convene annually at a meeting held in September and more often as determined by the chair. Four members of the board constitute a quorum. Four votes are required to act on any matter, although a lesser number may adjourn a meeting.

[2011, c. 302, §9 (NEW) .]

7. Compensation. Appointed members of the board are compensated in accordance with Title 5, section 12004-F, subsection 4.

[2011, c. 302, §9 (NEW) .]

8. Executive director. At its annual meeting each September, the board shall appoint or reappoint an executive director who is not a member of the board. An executive director's first appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate.

[2011, c. 302, §9 (NEW) .]

9. Secretary and treasurer. At its annual meeting each year, the board shall elect a secretary and a treasurer, who may be the same person and need not be a member of the board. The secretary and treasurer are responsible in their respective capacities directly to the board and may be relieved of their duties only by the board. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of \$50,000. Each security bond must be approved by the Attorney General and conditioned upon the faithful performance of the duties of the secretary and treasurer. The bond must be filed in the office of the State Auditor.

[2011, c. 302, §9 (NEW) .]

10. Compliance audits. In addition to retaining an annual auditor, the board shall retain a separate compliance auditor who shall:

- A. Periodically monitor the authority's financial operations and management controls; [2011, c. 302, §9 (NEW).]
- B. Test selected transactions for policy compliance; [2011, c. 302, §9 (NEW).]
- C. Make quarterly findings directly to the board and to the joint standing committee of the Legislature having jurisdiction over transportation matters; [2011, c. 302, §9 (NEW).]
- D. Recommend to the board any necessary or advisable improvements to management systems, policies or controls; and [2011, c. 302, §9 (NEW).]
- E. Render an annual compliance and management report in conjunction with the report of the authority's annual auditor. [2011, c. 302, §9 (NEW).]

[2011, c. 302, §9 (NEW).]

SECTION HISTORY

2011, c. 302, §9 (NEW).

§1965. MAINE TURNPIKE AUTHORITY; POWERS

1. Powers. The Maine Turnpike Authority, as created by Private and Special Law 1941, chapter 69 and as authorized by Title 5, section 12004-F, subsection 4, is and continues to be a body both corporate and politic in the State and may:

- A. Sue and be sued; [1981, c. 595, §3 (NEW).]
- B. Have a seal and alter the seal at pleasure; [1981, c. 595, §3 (NEW).]
- C. Adopt from time to time and amend bylaws covering its procedure and rules governing use of the turnpike and any of the other services made available in connection with the turnpike; develop and adopt, in accordance with Title 5, chapter 375, rules governing the use of the turnpike and other services; publish those bylaws, rules as publication is necessary or advisable; and cause records of its proceedings to be kept; [2011, c. 302, §10 (AMD).]
- D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, except that the traveled way may not be widened or expanded beyond 3 lanes for each direction of travel from the southern terminus of the turnpike to mile marker 53 and beyond 2 lanes for each direction of travel elsewhere on the turnpike without the express approval of the Legislature.

Except as provided in section 1965-A, a license, permit or approval necessary for the widening or expansion of the turnpike may not be issued by any state agency unless that agency makes an affirmative finding that the widening or expansion is consistent with state transportation policy, as established in section 73, as well as rules implementing that policy; [2007, c. 270, §1 (AMD).]
- D-1. Construct, acquire, install, maintain and reconstruct communications facilities and equipment within the boundaries of the turnpike for the use of the authority, the use of others or both on such terms and conditions as the authority may determine; [2003, c. 572, §1 (AMD).]
- E. Acquire, hold and dispose of personal property for its purposes; [1981, c. 595, §3 (NEW).]
- F. Acquire in the name of the authority by purchase, eminent domain, lease or otherwise, real property and rights or easements therein determined by it necessary or desirable for its purposes, and use that property; [2011, c. 302, §10 (AMD).]
- G. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by section 1967; [1981, c. 595, §3 (NEW).]

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike and use the proceeds of such fees, fares and tolls for the purposes provided in this chapter, both as subject to and in accordance with such agreement with bondholders as may be made as provided in this chapter; [1981, c. 595, §3 (NEW).]

I. Make contracts with the United States or any instrumentality or agency of the United States, another state or any instrumentality, municipality or agency of another state, including multi-state entities composed of other state agencies, this State or any of its agencies or instrumentalities, municipalities, public corporations, or bodies existing therein, private corporations, partnerships, associations and individuals; [2001, c. 440, Pt. I, §1 (AMD).]

J. Accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the turnpike and do any and all things necessary in order to avail itself of that aid and cooperation and repay any such grant or portion thereof; [1981, c. 595, §3 (NEW).]

J-1. Contract with other public agencies and political subdivisions of the State to provide maintenance services in accordance with reimbursement arrangements that are satisfactory to the authority; [2011, c. 302, §10 (AMD).]

K. Employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees as it considers necessary or desirable for its purposes; [2011, c. 302, §10 (AMD).]

L. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States; [1981, c. 595, §3 (NEW).]

M. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligations of the authority for the purposes set forth in this chapter and secure the payment of that obligation or any part thereof by pledge of all or any part of the operating revenues of the turnpike; [1981, c. 595, §3 (NEW).]

N. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for purposes for which bonds may be issued and to exercise with respect to such loan or security agreements all of the powers delineated in this chapter for the issuances of bonds; [1981, c. 595, §3 (NEW).]

O. [1993, c. 680, Pt. A, §25 (RP).]

O-1. Provide for an annual amount not to exceed a maximum of \$4,700,000 to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations, after money has been set aside or adequate provision has been made to pay operating expenses and to meet the requirements of any resolution authorizing revenue bonds of the authority; [1995, c. 504, Pt. C, §4 (NEW).]

O-2. Make a contract or enter into an agreement with or provide certifications and assurances to the Department of Transportation, or any other 3rd party, necessary in connection with the determination of department projects, the issuance of bonds or other obligations pursuant to section 1968, subsection 2-A, the pledge of revenues to the payment of these bonds or obligations or the payment of the costs or a portion of the costs of department projects; [2011, c. 302, §10 (AMD).]

P. Provide from revenues to or for the use of the department funds for the maintenance, construction or reconstruction of interchanges determined pursuant to section 1974, subsection 3, for which the authority has not otherwise provided; [1981, c. 595, §3 (NEW).]

Q. Use toll revenues to provide payment of obligations, if any, as may be due to the United States in order to continue the use of the turnpike as a toll type facility; [1981, c. 595, §3 (NEW).]

R. [1993, c. 410, Pt. MM, §5 (RP).]

S. Prior to the issuance of any bonds, issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for those bonds when issued; [1991, c. 622, Pt. EE, §1 (AMD).]

S-1. Utilize the Department of Transportation, Office of Legal Services or the Department of the Attorney General for general counsel, bond counsel, labor defense, workers' compensation, legislative issues and other required legal services on a fee-for-service basis at rates determined by those agencies; [1993, c. 612, §3 (AMD).]

T. Take all other lawful action necessary and incidental to these powers; [2003, c. 311, §1 (AMD).]

U. Adopt rules, in accordance with the Maine Administrative Procedure Act, to establish a logo signing program on the turnpike. The authority may charge fees for signs that contain names, symbols, logos or other identifiers of specific commercial enterprises. This paragraph may not be interpreted as limiting the authority's general power to collect fees under paragraph H; [2011, c. 302, §10 (AMD).]

V. Develop programs whereby a patron of the turnpike who uses the authority's electronic toll collection system, as defined in section 1980, subsection 2-A, paragraph B, may elect to use the patron's electronic toll collection system device to pay for services other than tolls for the use of the turnpike, whether those services are provided by the authority itself or 3rd parties, and allow the patron to participate in similar programs developed by other tolling authorities; and [2011, c. 302, §10 (AMD).]

W. Provide, receive or exchange services with other political agencies, political subdivisions of a state or tolling authorities upon terms beneficial to the authority. [2011, c. 302, §10 (NEW).]

[2011, c. 302, §10 (AMD) .]

2. Membership of the authority.

[2011, c. 302, §10 (RP) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1981, c. 698, §102 (AMD). 1983, c. 337, §1 (AMD). 1983, c. 812, §§142,143 (AMD). 1987, c. 433, §1 (AMD). 1987, c. 457, §§2,3 (AMD). 1987, c. 793, §A7 (AMD). 1989, c. 503, §B100 (AMD). IB 1991, c. 1, §§5,6 (AMD). RR 1991, c. 2, §90 (COR). 1991, c. 9, §E15 (AMD). 1991, c. 622, §§EE1,2 (AMD). 1993, c. 410, §§MM4,5 (AMD). 1993, c. 563, §2 (AMD). 1993, c. 612, §§3-5 (AMD). 1993, c. 680, §A25 (AMD). 1995, c. 108, §1 (AMD). 1995, c. 341, §1 (AMD). 1995, c. 504, §C4 (AMD). 1997, c. 493, §A1 (AMD). 1997, c. 493, §A3 (AFF). 1999, c. 177, §§1-3 (AMD). 2001, c. 41, §1 (AMD). 2001, c. 440, §I1 (AMD). 2003, c. 311, §§1-3 (AMD). 2003, c. 572, §1 (AMD). 2003, c. 591, §1 (AMD). 2005, c. 54, §§1,2 (AMD). 2007, c. 270, §1 (AMD). 2011, c. 302, §10 (AMD).

§1965-A. WIDENING OF THE TURNPIKE BETWEEN EXIT 1 AND EXIT 6-A

1. Evaluation of reasonable alternatives. No later than December 15, 1996, the authority shall complete an evaluation of the reasonable alternatives specified in this subsection to widening the turnpike to 3 lanes for each direction of travel from Exit 1 to, and including, Exit 6A. To evaluate reasonable alternatives, the authority shall:

A. Complete an evaluation of the conversion of the turnpike toll collection system to an automated electronic system designed to move traffic more efficiently through toll plazas; [1995, c. 613, §3 (AMD).]

B. Complete an alternative mode feasibility study that examines regional travel patterns and demographics and provides an inventory of existing transportation infrastructure and employer-based commuter programs in the study area; [1995, c. 341, §2 (NEW).]

C. Develop and implement a rideshare program to promote vanpooling and carpooling, including funding and completion of a park and ride facility at Exit 2; and [1995, c. 341, §2 (NEW).]

D. Complete a 2-year study of the effects of congestion pricing on the turnpike and travel needs of the southern part of the State. [1995, c. 341, §2 (NEW).]

In conducting the evaluation required by this subsection, the authority shall provide for public participation consistent with the Sensible Transportation Policy Act and the rules adopted pursuant to that Act.

Completion of the evaluation components specified in paragraphs A to D satisfies the alternative evaluation requirements of the Sensible Transportation Policy Act and of the rules adopted pursuant to that Act.

[1995, c. 613, §3 (AMD) .]

2. Review of alternatives. Upon completing the evaluation required under subsection 1, the authority shall review the alternatives to determine if the alternatives can meet the identified transportation deficiency or need in a safe manner at a reasonable cost with available technology. If, based on the evaluation, the authority finds that the alternatives do not meet the identified deficiency or need:

A. A final license, permit, or approval necessary for the widening or expansion of the turnpike may be issued by the appropriate state agency; and [1995, c. 341, §2 (NEW).]

B. The alternative evaluation and preference requirements of section 73 and rules adopted pursuant to section 73 are considered satisfied. [1995, c. 341, §2 (NEW).]

[1995, c. 341, §2 (NEW) .]

SECTION HISTORY

1995, c. 341, §2 (NEW). 1995, c. 613, §3 (AMD). 1997, c. 493, §A2 (AMD). 1997, c. 493, §A3 (AFF).

§1965-B. WIDENING OF THE TURNPIKE BETWEEN MILE MARKER 44 AND MILE MARKER 53

1. Evaluation of reasonable alternatives. The authority shall complete an evaluation of reasonable alternatives to widening the turnpike to 3 lanes for each direction of travel in the corridor from mile marker 44 to mile marker 53. To evaluate reasonable alternatives, the authority shall complete an alternative mode feasibility study that examines regional travel patterns and demographics and provides an inventory of existing transportation infrastructure and employer-based commuter programs in the turnpike corridor from mile 44 to mile 53.

In conducting the evaluation required by this subsection, the authority shall provide for public participation consistent with section 73 and the rules adopted pursuant to that section. Completion of the evaluation required by this subsection satisfies the alternative evaluation requirements of section 73 and of the rules adopted pursuant to that section.

[2007, c. 270, §2 (NEW) .]

2. Review of alternatives. Upon completing the evaluation required under subsection 1, the authority shall review the alternatives to determine whether the alternatives can meet identified transportation deficiencies or needs in a safe manner at a reasonable cost with available technology. If, based on the evaluation, the authority finds that the alternatives do not meet the identified deficiencies or needs:

A. A final license, permit or approval necessary for the widening or expansion of the turnpike may be issued by the appropriate state agency; and [2007, c. 270, §2 (NEW).]

B. The alternative evaluation and preference requirements of section 73 and rules adopted pursuant to that section are considered satisfied. [2007, c. 270, §2 (NEW).]

[2007, c. 270, §2 (NEW).]

SECTION HISTORY

2007, c. 270, §2 (NEW).

§1966. OBLIGATIONS OF THE AUTHORITY

The authority shall operate as follows. [1981, c. 595, §3 (NEW).]

1. General. All expenses incurred in carrying out this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation may be incurred under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

[1981, c. 595, §3 (NEW).]

2. Coordination between authority and department on construction or reconstruction.

Construction or reconstruction of the turnpike and its connecting tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be coordinated with the department and performed in a fashion generally consistent with applicable department standards under oversight of professional engineers registered in the State. The department shall coordinate with the authority on all department projects that are likely to affect turnpike projects and operations.

Contractors and subcontractors on all authority construction and reconstruction projects must be equal opportunity employers and, in connection with contracts in excess of \$250,000, also pursue in good faith affirmative action programs designed to remedy underrepresentation of minorities, women and persons with disabilities. The authority may by rule provide for the enforcement of this requirement. To the extent practical, the authority may use program and technical information developed by and available through the Department of Transportation to carry out this subsection.

All authority construction and reconstruction projects are governed by the prevailing wage provisions in Title 26, chapter 15.

[2011, c. 302, §11 (AMD).]

2-A. Contracts for goods and services. Except as otherwise permitted by law, contracts for goods and services must be awarded by the authority through a competitive procurement process. The requirement for competitive procurement may be waived:

A. By the executive director when the purchase is for \$25,000 or less and the executive director determines that procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need; [2011, c. 302, §12 (NEW).]

B. By the chair of the board when the chair determines that procurement is required by a state of emergency; or [2011, c. 302, §12 (NEW).]

C. By the board pursuant to a written finding that:

(1) Procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;

(2) The service or product is uniquely available from only one source; or

(3) Only one known source can meet the authority's needs within the required time. [2011, c. 302, §12 (NEW).]

[2011, c. 302, §12 (NEW) .]

2-B. Contracts for engineering services. When bond indentures require the authority to appoint an engineering consultant who may thereby gain a disproportionate advantage when competing for other design and inspection contracts, the authority shall adopt policies to mitigate this advantage and promote a fair distribution of the available work among qualified competing applicants.

[2011, c. 302, §13 (NEW) .]

3. Bonds not to be pledges of State. Turnpike revenue bonds issued under this chapter, including any notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, shall not be deemed to be a debt of the State or a pledge of the faith and credit of the State, but these bonds shall be payable exclusively from the fund provided in this chapter for that purpose from tolls or other operating revenues. All these bonds shall contain a statement on their face that the State shall not be obligated to pay the same or the interest thereon and that the faith and credit of the State shall not be pledged to the payment of the principal of or interest or premium on such bonds. The issuance of bonds or refunding bonds under this chapter shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for the payment thereof or the interest or premium thereon.

[1981, c. 595, §3 (NEW) .]

4. Semiannual report. The authority, on a semiannual basis, shall present its report to the Legislative Council and send copies to the joint standing committee of the Legislature having jurisdiction over transportation, Commissioner of Transportation and the Office of Fiscal and Program Review. The report shall include a full detailed description of the authority's activities for the preceding fiscal half, including a detailed report of its receipts and expenditures from all sources.

[1987, c. 457, §4 (NEW) .]

5. Fair practices; affirmative action. The authority is subject to and shall comply with Title 5, chapter 65.

[1991, c. 435, §2 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1987, c. 457, §4 (AMD). 1991, c. 435, §§1,2 (AMD). 1997, c. 743, §1 (AMD). 2011, c. 302, §§11-13 (AMD).

§1967. PROPERTY OF THE AUTHORITY; EMINENT DOMAIN

The authority shall hold and acquire property as follows. [1981, c. 595, §3 (NEW).]

1. Property of the authority. All property of the authority and all property held in the name of the State pursuant to the provisions of this chapter are exempt from levy and sale by virtue of any execution, and an execution or other judicial process is not a valid lien upon property of the authority held pursuant to the provisions of this chapter.

A. The authority may not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements in that property, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, except for the following:

- (1) Intermodal transportation facilities, kiosks at rest areas, gasoline filling stations, service and repair stations, safety patrol vehicles sponsored or operated by 3rd parties, tourist-oriented retail facilities, state and tri-state lottery ticket agencies, automatic teller machines and restaurants that the authority determines are necessary to service the needs of the traveling public while using the turnpike. The leasehold interests in such intermodal transportation facilities, kiosks, gasoline filling stations, service and repair stations, tourist-oriented retail facilities, state and tri-state lottery ticket agencies, automatic teller machines and restaurants are subject to taxation as provided in section 1971;
- (2) Electrical power, telegraph, telephone, communications, water, sewer or pipeline facilities installed or erected by the authority, or permitted to be installed or erected by the authority; and
- (3) Signs erected and maintained by the authority, or allowed by the authority to be erected and maintained, in accordance with rules adopted pursuant to section 1965, subsection 1, paragraph U, that contain names, symbols, trademarks, logos or other identifiers of specific commercial enterprises. [2013, c. 549, §4 (NEW) .]

As used in this subsection, "tourist-oriented retail facilities" means facilities that promote tourism in this State by selling products that are made or primarily made in this State or to which value is added in this State.

[2013, c. 549, §4 (RPR) .]

2. Use of eminent domain. Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the authority or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the authority may acquire by eminent domain any such real property whether wholly or partly constructed or interest or interests therein and any land, rights, easements, franchises and other property deemed necessary or convenient for the construction or reconstruction or the efficient operation of the turnpike, its connecting tunnels, or bridges, overpasses, underpasses or interchanges, or both, in the manner provided by chapter 3, subchapter III. Title to any property taken by eminent domain shall be in the name of the authority.

[1981, c. 595, §3 (NEW) .]

3. Entry upon lands. The authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it deems necessary or convenient for the purpose of this chapter and the entry shall not be deemed a trespass.

[1981, c. 595, §3 (NEW) .]

4. Authority for transfers of interest in land to the authority. All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State, and all public service corporations and districts, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request, upon such terms and conditions as the proper authorities of the counties, cities, towns, political subdivisions, other municipalities, agencies, commissions, public service corporations and districts deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property or rights therein that may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real and personal property or rights therein already devoted to public use. As used in this subsection, the term "public service corporation" includes every public utility as defined in Title 35-A, section 102, subsection 13, and every corporation referred to in Title 13-C.

[2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §39 (COR) .]

5. Access. Notwithstanding subsection 1, the authority may permit the City of Saco, or its successors or assigns, to use the interchange in Saco formerly known as exit 5 of the turnpike and land located adjacent to this former interchange for access, utility lines and appurtenances, parking and related accessory rights for the benefit of any or any combination of the following facilities:

- A. A liquor store or retail facility; [1993, c. 612, §7 (NEW).]
- B. A regional information center; [1993, c. 612, §7 (NEW).]
- C. A restaurant; [1993, c. 612, §7 (NEW).]
- D. A hotel; or [1993, c. 612, §7 (NEW).]
- E. A banquet and conference center. [1993, c. 612, §7 (NEW).]

The facilities must be located on property adjacent to the access way that connected the former exit 5 interchange with North Street in Saco. The terms of locating a facility must be mutually agreed upon by the authority and the City of Saco, its successors or its assigns. Access to and from the turnpike by means of the interchange at former exit 5 is restricted to facilities permitted under this subsection.

[1993, c. 612, §7 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1983, c. 707, §1 (AMD). 1987, c. 141, §B19 (AMD). 1989, c. 145, (AMD). 1993, c. 410, §MM6 (AMD). 1993, c. 612, §§6,7 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B39 (COR). 2001, c. 41, §2 (AMD). 2007, c. 480, §1 (AMD). 2013, c. 549, §4 (AMD).

§1968. ISSUANCE OF BONDS

The authority may issue bonds as follows. [1995, c. 138, §1 (RPR).]

1. Turnpike revenue bonds. In addition to bonds outstanding pursuant to any other provision of this chapter, the authority may provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding \$486,000,000 in the principal amount at any one time outstanding exclusive of refundings, for any purpose described in section 1969, subsection 1.

[2007, c. 270, §3 (AMD) .]

2. Bonds for construction and reconstruction of interchanges.

[2003, c. 32, §2 (RP) .]

2-A. Bonds for Department of Transportation projects. In addition to bonds outstanding pursuant to any other provision of this chapter, the authority may provide by resolution from time to time but no later than June 30, 1997 for the issuance of special obligation bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, not exceeding \$40,000,000 in aggregate principal amount exclusive of refundings, to pay to the Department of Transportation the costs, or a portion of the costs, of Department of Transportation projects. Department of Transportation projects paid for with bonds in accordance with this subsection must be determined by the Department of Transportation and the authority to have sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6.

[1997, c. 646, §2 (AMD) .]

2-B. Bonds for turnpike widening.

[2003, c. 32, §3 (RP) .]

2-C. Bonds for purchase of interstate in Kittery. In addition to bonds outstanding pursuant to any other provision of this chapter, the authority may provide by resolution for the issuance of special obligation or subordinate bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, not exceeding \$35,000,000 in aggregate principal amount exclusive of refundings, to purchase a section of Interstate 95 in Kittery from the Department of Transportation.

[2013, c. 586, Pt. F, §1 (NEW) .]

3. Bonds; negotiable; not debt of State. The bonds of the authority do not constitute a debt of the State or of any agency or political subdivision of the State and are payable solely from the operating revenues of the turnpike. Notwithstanding any provision of law, any bonds issued pursuant to this chapter are fully negotiable. If any of the members or officers of the authority whose signatures appear on the bonds or coupons cease to be members or officers before the delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes as if the members or officers had remained in office until that delivery.

Whether or not the bonds are of such form and character as to be negotiable instruments under Title 11, Article 8, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of Title 11, Article 8, subject only to the provisions of the bonds for registration.

It is the intention of this chapter that any pledge made by the authority in respect to the bonds or notes is valid and binding from the time when the pledge is made; that the funds or property so pledged and thereafter received by the authority is immediately subject to the lien of that pledge without any physical delivery of those funds or property or further act; and that the lien of such a pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether those parties have notice of that lien. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

The authority may, in the resolution authorizing prospective issues, provide as to those bonds:

- A. The manner of executing the bonds and coupons; [1995, c. 138, §1 (NEW) .]
- B. The form and denomination of the bonds; [1995, c. 138, §1 (NEW) .]
- C. Maturity dates; [1999, c. 132, §1 (AMD) .]
- D. The interest rate or rates on the bonds, which may be fixed or variable or a combination of both; [1995, c. 138, §1 (NEW) .]
- E. For the redemption prior to maturity and the premium payable for the bonds; [1995, c. 138, §1 (NEW) .]
- F. The place or places for the payment of interest and principal; [1995, c. 138, §1 (NEW) .]
- G. For registration if the authority determines it to be desirable; [1995, c. 138, §1 (NEW) .]
- H. For the pledge of all or any of the operating revenues of the turnpike for securing payment; [1995, c. 138, §1 (NEW) .]
- I. For the replacement of lost, destroyed or mutilated bonds; [1995, c. 138, §1 (NEW) .]
- J. The setting aside of revenue and sinking funds and the regulation and disposition of these revenues and funds and for limitations on reserves, if any, established for capital outlay from operating revenues; [1995, c. 138, §1 (NEW) .]
- K. For limitations on the issuance of additional bonds; [1995, c. 138, §1 (NEW) .]
- L. For the procedure, if any, by which the contract with the bondholders may be abrogated or amended; [1995, c. 138, §1 (NEW) .]
- M. For the manner of sale, which may be public or private, and purchase of the bonds; [1995, c. 138, §1 (NEW) .]
- N. For covenants against pledging any or certain of the operating revenues of the turnpike; [1995, c. 138, §1 (NEW) .]

O. For covenants fixing and establishing the prices, rates and charges for the use of the turnpike and other services made available in connection with the turnpike so as to provide at all times funds that will be sufficient:

- (1) To pay all costs of operation and maintenance of the turnpike, together with the necessary repairs to the turnpike;
- (2) To meet and pay the principal and interest of all such bonds as they severally become due and payable;
- (3) For the creation of these reserves for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of the turnpike as the authority determines; and
- (4) To pay other lawful charges or costs for which the authority is responsible; [1995, c. 138, §1 (NEW).]

P. For such other covenants as to such prices, rates and charges as the authority determines; [1995, c. 138, §1 (NEW).]

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation; [1995, c. 138, §1 (NEW).]

R. For covenants as to the bonds to be issued and as to the issuance of the bonds in escrow and otherwise and as to the use and disposition of the proceeds of the bonds; [1995, c. 138, §1 (NEW).]

S. For covenants as to the use of its property and the maintenance and replacement of the property and the insurance to be carried on the property and the use and disposition of insurance money; [1995, c. 138, §1 (NEW).]

T. For limitations upon the exercise of the powers conferred upon the authority by this chapter; [1995, c. 138, §1 (NEW).]

U. For the issuance of these bonds in series or in serial form or for a stated term of years with or without mandatory retirements from a sinking fund or otherwise; [1995, c. 138, §1 (NEW).]

V. For the issuance, in addition to the issuance of notes and other evidences of indebtedness or obligations authorized under this chapter, of notes in anticipation of authorized bonds and for the exercise with respect to the bond anticipation notes of any or all of its powers delineated in this chapter for the issuance of bonds; and [1995, c. 138, §1 (NEW).]

W. For the performance by the authority of any acts and things necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the authority as will tend to make the bonds more marketable notwithstanding that those acts or things may not be enumerated in this chapter. [1995, c. 138, §1 (NEW).]

[1999, c. 132, §1 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1987, c. 457, §5 (AMD). IB 1991, c. 1, §7 (AMD). 1993, c. 410, §MM7 (AMD). 1995, c. 138, §1 (RPR). 1995, c. 504, §C5 (AMD). 1997, c. 646, §1 (AMD). 1997, c. 646, §§1-3 (AMD). 1997, c. 646, §2 (AMD). 1997, c. 646, §3 (AMD). 1999, c. 132, §1 (AMD). 2001, c. 311, §1 (AMD). 2003, c. 32, §§1-3 (AMD). 2003, c. 566, §1 (AMD). 2007, c. 59, §1 (AMD). 2007, c. 270, §3 (AMD). 2013, c. 586, Pt. F, §1 (AMD).

§1969. APPLICATION OF PROCEEDS OF BONDS OR NOTES IN ANTICIPATION THEREOF

Bonds shall be applied as follows. [1981, c. 595, §3 (NEW).]

1. Application. All moneys received from any bonds or bond anticipation notes issued pursuant to this chapter shall be applied solely:

- A. To the payment of the cost of the construction and reconstruction of the turnpike or to the payment to the Department of Transportation of the cost of department projects or to the payment of the cost of the purchase of a section of Interstate 95 in Kittery; [2013, c. 586, Pt. F, §2 (AMD).]
- B. To the repayment of grants or loans from the Federal Government that were used to construct or reconstruct the turnpike or portions of it or interconnecting access roads or portions of them but only to the extent that that repayment is required in order for the authority to maintain or establish tolls on the turnpike; [1993, c. 410, Pt. MM, §8 (AMD).]
- C. To the payment of the costs of constructing or reconstructing interchanges that are determined by the Department of Transportation and the authority to have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of traffic on the turnpike in accordance with the requirements of section 1974, subsection 3; [1993, c. 410, Pt. MM, §8 (AMD).]
- D. To the payment of the costs of issuance of the bonds; [1981, c. 595, §3 (NEW).]
- E. To the creation of reasonable reserves for the payment of the principal of and interest on those bonds, and to meet the cost of extraordinary repairs to or maintenance of the turnpike; [1981, c. 595, §3 (NEW).]
- F. To the appurtenant fund; and [1981, c. 595, §3 (NEW).]
- G. To the payment of any temporary notes of the authority the proceeds of which were used for any of the foregoing purposes. [1981, c. 595, §3 (NEW).]

[2013, c. 586, Pt. F, §2 (AMD) .]

2. Lien created. There is created and granted a lien upon the moneys until so applied in favor of holders of those bonds or the trustee provided for under this chapter in respect of these bonds.

[1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1993, c. 410, §MM8 (AMD). 1995, c. 504, §C6 (AMD). 2011, c. 302, §14 (AMD). 2013, c. 586, Pt. F, §2 (AMD).

§1970. BONDS; HOW SECURED

1. Trust indentures. In the discretion of the authority, bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State, or by a loan or other security agreement with a lender or with such a trustee containing provisions that may be included in a bond resolution or trust indenture under this chapter. The trust indenture or loan or other security agreement may pledge or assign tolls or revenues to be received but may not convey or mortgage the turnpike or any part thereof. Either the resolution providing for the issuance of the bonds or the trust indenture or loan or other security agreement may contain provisions for protecting and enforcing the rights and remedies of the bondholders or other lenders or of the trustee, if any, as may be reasonable and proper and not in violation of law, including: covenants setting forth the duties of the authority in relation to the acquisition of property; the construction, maintenance, operation, repair and insurance of the turnpike; the custody, safeguarding and application of all money; and any other provisions that the authority determines are necessary, convenient or desirable for the security of bondholders and other lenders or of the trustee, if any. Any such indenture or loan or other security agreement may restrict the

individual right of action of bondholders or other lenders to the extent the authority determines is necessary, convenient or desirable. All expenses incurred in carrying out the trust indenture or loan or other security agreement may be treated as a part of the cost of the maintenance, operation and repair of the turnpike.

[2003, c. 152, §1 (NEW) .]

2. Other agreements. The authority may enter into an agreement with a bank or financial institution incorporated within or outside of the State as necessary or convenient for the provision of trustee, paying agent, depository or other financial services in connection with bonds issued by the authority pursuant to this chapter, and it is lawful for any bank or trust company to enter into any such agreements with the authority and to furnish indemnity bonds or to pledge any securities required by the authority.

[2003, c. 152, §1 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 2003, c. 152, §1 (RPR).

§1971. EXEMPTION FROM TAXES

The accomplishment by the authority of the authorized purpose stated in this chapter being for the benefit of the people of the State and for the improvement of their commerce and prosperity in which accomplishment the authority will be performing essential governmental functions, the authority shall not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter, except that restaurants, kiosks, fuel and service facilities, leased or rented by the authority to business entities, shall be subject to taxation, and assessments shall be made against the tenant in possession based upon the value of the leasehold interest, both real and personal, nor may the authority be required to pay any tax upon its income except as may be required by the laws of the United States, and the bonds or other securities and obligations issued from the authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the State. [1983, c. 707, §2 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1983, c. 707, §2 (AMD).

§1972. REFUNDING BONDS

The authority is authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the authority, including notes or other obligations defined as bonds under this chapter for the purpose of refunding any bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these bonds; and, if deemed advisable by the authority, for any additional purpose for which bonds authorized by this chapter may be issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the authority in respect of those rights, duties and obligations, shall be governed by this chapter insofar as these rights, duties and obligations may be applicable. [1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1973. MAINTENANCE OF THE TURNPIKE

1. Maintenance and repair. The turnpike shall be maintained and repaired by and under the control of the authority and, at the discretion of the authority, the services of the Department of Transportation, as far as the services are available or expedient, may be utilized for this purpose. All charges and costs for maintenance

and repairs actually expended by the department shall be paid to it by the authority. The turnpike shall be operated by such force of toll takers and other operating employees as the authority may in its discretion employ. The authority may utilize the services of the State Police to enforce the rules of the authority with respect to tolls, volume, weight and speed of traffic and with respect to such other matters of enforcement as it may in its discretion require, and all charges and costs for those services actually expended by the State Police shall be paid by the authority to the Treasurer of State in accordance with section 1974, subsection 5.

[1981, c. 595, §3 (NEW) .]

2. Speed limit. The authority may by rule prescribe a maximum limitation on the speed of vehicles using the turnpike, but not exceeding 65 miles per hour or such maximum speed as is permitted on similar roads in the State, and so limit the speed at any point or place thereon, and may regulate the volume and weight of vehicles admitted to the turnpike.

[1987, c. 257, §1 (AMD) .]

3. Tolls. Tolls, or the fixing of tolls, is not rulemaking and is not subject to supervision or regulation by any state commission, board or agency. Subject to subsection 4, the authority may fix and revise from time to time tolls for the use of the turnpike and the different parts or sections of the turnpike, and charge and collect the tolls, and contract with any person, partnership, association or corporation desiring the use of any part of the turnpike, including the right-of-way adjoining the paved portion. The tolls must be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay for each fiscal year:

A. The cost of maintaining, repairing and operating the turnpike, and providing and maintaining reasonable reserves for those costs; [1993, c. 698, §1 (AMD) .]

B. The bonds and the interest on those bonds, and all sinking fund requirements, and other requirements provided by the resolution authorizing issuance of the bonds or by the trust indenture or loan or a security agreement as those bonds, interest, sinking fund requirements and other requirements become due; [1993, c. 698, §1 (AMD) .]

C. Those sums for the purpose of maintaining, constructing or reconstructing access roads or portions of access roads that have been requested by the department and in the sole discretion of the authority are from time to time determined to warrant the expenditure of turnpike revenues; and [1993, c. 698, §1 (AMD) .]

D. The cost of maintaining, constructing or reconstructing interchanges. [1981, c. 595, §3 (NEW) .]

The authority may use any method for assessing and collecting tolls, including but not limited to toll tickets, barrier toll facilities, billing accounts, commuter passes and electronic recording or identification devices. The display of a recording or identification device issued or authorized by the authority for these purposes on or near the windshield of a motor vehicle is not a violation of a law or rule, including but not limited to Title 29-A, sections 1916 and 2082, unless the device is attached in a way that obstructs the driver's clear view of the highway or an intersecting highway.

[1995, c. 65, Pt. A, §63 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

4. Rates. The rate of toll at each toll facility may be revised from time to time.

A. [2011, c. 476, §4 (RP) .]

A-1. The authority is prohibited from imposing variable surcharges based on the time of day. [2011, c. 476, §4 (AMD) .]

B. A reduction in the rates of fees, fares and tolls may be given to any class of vehicle based upon volume of use. [2011, c. 476, §4 (AMD).]

[2011, c. 476, §4 (AMD) .]

5. Use by military. The turnpike may be used at any and all times by the Armed Forces of the United States, the State or any of their allies for defense purposes or preparations therefor free of all tolls and charges, and that use shall not constitute a taking of property without due process, provided that any structural damage to the turnpike created by that free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

[1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1987, c. 257, §1 (AMD). 1993, c. 698, §1 (AMD). 1995, c. 65, §A63 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 410, §§1,2 (AMD). 2011, c. 476, §4 (AMD).

§1974. USE OF TURNPIKE REVENUES

1. Expenditures. Expenditure of all tolls collected from the Maine Turnpike toll facilities and all other revenues derived from the turnpike operations after the effective date of this chapter shall be limited to the following purposes:

A. Maintenance, repair and operation of the turnpike and the establishment of reserves required therefor including, without limitations, reserves required or permitted by the resolutions authorizing the issuance of bonds or by the trust indentures relating to those bonds, and including any costs specially incurred by the Department of Transportation or any other state agency in connection with the operation of the turnpike; [1981, c. 595, §3 (NEW).]

B. Payment of the cost of any debt incurred by the authority, including, but not limited to, payment of interest and principal on any bonds issued by the authority and payment into any sinking funds required by subsection 2; [1981, c. 595, §3 (NEW).]

C. Construction or reconstruction to improve the turnpike to meet greater traffic demands or improve safety of operation, including reserves therefor, as authorized in paragraph E, except that the traveled way shall not be widened or expanded beyond the limits set forth in section 1965, subsection 1, paragraph D without the express approval of the Legislature; [1987, c. 457, §6 (AMD).]

D. Maintenance, construction or reconstruction of access roads, or portions thereof, where the authority has made the determinations required by subsection 4; [1981, c. 595, §3 (NEW).]

E. Payments to reserve or sinking funds established by the authority to meet anticipated future costs of constructing or reconstructing designated interchanges or portions thereof submitted by the department, or to accomplish other designated purposes for which the authority is authorized to issue bonds, provided that the funding for those projects financed from reserves, together with the estimated future costs thereof, have been approved by the authority; [1987, c. 457, §6 (AMD).]

F. Repayment to the Federal Government for grants or loans that were used in connection with the construction or reconstruction of any portion of the turnpike or of any interconnecting access roads, but only to the extent that the repayment is required in order for the authority to maintain or establish tolls on the turnpike; and [1993, c. 410, Pt. MM, §9 (AMD).]

G. Payment or repayment to the Federal Government or any agency of the Federal Government of any charges, taxes or other payments required by law in connection with the construction, reconstruction or operation of the turnpike or the financing or refinancing of the turnpike or any part of the turnpike. [1987, c. 457, §7 (NEW).]

[1993, c. 410, Pt. MM, §9 (AMD) .]

2. Sinking fund for payment of bonds. The tolls and all other revenues derived from the turnpike, except such part thereof as may be required to pay the cost of maintaining, repairing and operating the turnpike and to provide such reserves therefor as may be provided for in a resolution authorizing the issuance of the bonds or in the related trust indenture or loan or other security agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust indenture or loan or other security agreement, in a sinking fund which is pledged to, and charged with, the payment of:

- A. The interest upon those bonds as that interest falls due; [1981, c. 595, §3 (NEW).]
- B. The principal of the bonds as that principal falls due; [1981, c. 595, §3 (NEW).]
- C. The necessary fiscal agency charges for paying principal and interest; and [1981, c. 595, §3 (NEW).]
- D. Any premiums upon bonds retired by call or purchase as provided in this subsection. [1981, c. 595, §3 (NEW).]

The use and disposition of the sinking fund shall be subject to such rules as may be provided in the resolution authorizing the issuance of bonds or in the related trust indenture or loan or other security agreement, but, except as may otherwise be provided in that resolution or trust indenture or loan or other security agreement, the sinking fund shall be a fund for the benefit of all bonds issued under this subsection without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of bonds or of the trust indenture or loan or other security agreement, any moneys in the sinking fund in excess of an amount equal to one year's interest on all bonds then outstanding may be applied to the purchase or redemption of bonds. All bonds so purchased or redeemed shall immediately be canceled and shall not again be issued.

[1981, c. 595, §3 (NEW) .]

3. Revenues for additional interchanges. In addition to interchanges which have been incorporated into the turnpike, the authority shall authorize turnpike revenues to be utilized for interchanges determined pursuant to the terms and conditions of this section, provided that the department shall request use of revenues by submitting a proposed program for additional interchanges or improvements to existing interchanges, and provided that the authority shall have and exercise sole discretion to set the level of revenues, and provided further that the additional interchanges or improvements have or would have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of vehicular traffic using the turnpike so that the use of the turnpike revenues is warranted to pay all or any portion of the cost of maintaining or constructing such additional interchanges or improvements and all or a portion of the access roads required in connection therewith. In making the determination of whether a sufficient relationship exists, the department and the authority shall consider the following factors, no one of which may necessarily be determinative:

- A. The existing road network; [1981, c. 595, §3 (NEW).]
- B. The traffic impact of the construction or reconstruction on the existing road network; [1981, c. 595, §3 (NEW).]
- C. The probable change in departmental or authority expenditures resulting from construction or maintenance; [1981, c. 595, §3 (NEW).]
- D. The relative number of vehicles using or expecting to use those access roads on the way to or from the turnpike; [1981, c. 595, §3 (NEW).]
- E. The road distance of those access roads or portions thereof from the nearest entrance to or exit from the turnpike; [1981, c. 595, §3 (NEW).]

F. The effect the construction or improvement will have on the flow of traffic to, from and on the turnpike, and in diverting vehicular traffic off or away from the turnpike; [1981, c. 698, §104 (AMD) .]

G. The probable availability of turnpike revenues to make the payments; [1981, c. 595, §3 (NEW) .]

H. The availability of alternative roads to or from the turnpike; [1981, c. 595, §3 (NEW) .]

I. Priority shall be given to the construction or improvement of interchanges and related access roads which will promote industrial and economic development of communities adjacent to or near the turnpike, whose present lack of access tends to discourage that development. In determining the extent of effect on industrial and economic development, the department and the authority shall consider existing, committed, proposed and potential development. The first priority for the use of available toll revenues for interchanges shall be for new or a modification of present interchanges and access roads to provide the necessary access for the development of industrial parks in Lewiston and Auburn. The authority and the department shall make every effort to begin construction or modification of interchanges by January 2, 1984; [1981, c. 595, §3 (NEW) .]

J. Financial condition of the turnpike and financial impact of maintenance, improvement and construction; [1981, c. 595, §3 (NEW) .]

K. The existence of any seasonal interchanges which with nominal capital expenditure could be placed into year-round operation; and [1981, c. 595, §3 (NEW) .]

L. Such other factors deemed relevant, including, but not limited to, expert opinion. [1981, c. 595, §3 (NEW) .]

In state fiscal year 1990-91, the authority shall make a \$6,300,000 early payment representing amounts agreed to be paid by the authority for the Scarborough interchange project.

[1991, c. 9, Pt. E, §16 (AMD) .]

4. Revenues for access roads and the state highway system.

[1993, c. 680, Pt. A, §26 (RP) .]

5. Payment for State Police services on the Maine Turnpike. Payment for State Police services on the Maine Turnpike shall be as follows.

A. The authority shall assume all costs incurred by the State Police in enforcing the rules of the authority, and in providing for the safety of the public traveling on the turnpike, provided that the authority has authorized the provision of those services by the State Police, and provided also that the services of any State Police personnel whose costs are so assumed shall be utilized only for turnpike-related activities, except in the event of emergency. [1981, c. 595, §3 (NEW) .]

B. The Chief of the State Police shall submit monthly statements of costs incurred in connection with the turnpike, and the authority shall pay the amount of those costs to the Treasurer of State within 20 days of receipt of the monthly statement. The Treasurer of State shall credit those payments proportionately to the Highway Fund and the General Fund. [1981, c. 595, §3 (NEW) .]

C. Prior to December 1st of each year, the Chief of the State Police shall file a report with the authority containing the following information with respect to the level of State Police services required in the following fiscal year to adequately enforce the rules of the authority and to adequately provide for the safety of the public traveling on the turnpike:

- (1) The estimated level of personnel required for turnpike duty calculated according to the assignment of that personnel by shift;
- (2) Monthly and annual estimates of the cost of personnel required for turnpike duty;

- (3) The estimated number of vehicles and amount of equipment required for turnpike duty, including a schedule of anticipated replacement needs;
- (4) Annual estimates of the cost of vehicles and equipment required for turnpike duty; and
- (5) Any other information which will aid the authority in determining the required level of State Police services and the cost thereof. [1981, c. 595, §3 (NEW).]

D. The authority shall review the information provided in the annual report of the Chief of the State Police and shall authorize the provision of such patrol and other services as it shall deem necessary to enforce its rules and to provide for the safety of the public traveling on the turnpike. [1981, c. 595, §3 (NEW).]

[1981, c. 595, §3 (NEW) .]

6. Revenues to secure special obligation bonds for department projects; determination of project eligibility for funding. Subject to the terms and conditions of this chapter, the authority may authorize turnpike revenues to be transferred to a trustee or agent designated by the authority and that trustee or agent shall hold these revenues in trust to secure or to be applied to the payment of obligations issued pursuant to section 1968, subsection 2-A and as provided for in a resolution authorizing the issuance of these bonds or in a related trust indenture or loan or other security agreement.

The Department of Transportation shall provide the authority with a list of proposed department projects and any other information requested by the authority and relating to a project on the list. The Department of Transportation and the authority shall determine department projects that are eligible for funding with proceeds from bonds authorized by section 1968, subsection 2-A. In making this determination, the department and the authority may consider the following factors:

- A. The existing access roads and the state highway system; [1995, c. 504, Pt. C, §7 (NEW).]
- B. The traffic impact of the maintenance, construction or reconstruction on the existing road network; [1995, c. 504, Pt. C, §7 (NEW).]
- C. The total cost of the state highway system; [1995, c. 504, Pt. C, §7 (NEW).]
- D. The probable change in departmental expenditures resulting from maintenance, construction or reconstruction of the project; [1995, c. 504, Pt. C, §7 (NEW).]
- E. The relative number of vehicles using or expected to use the project on the way to or from the turnpike; [1995, c. 504, Pt. C, §7 (NEW).]
- F. The road distance or average road distance of the project or portions of the project from the nearest entrance to or exit from the turnpike; [1995, c. 504, Pt. C, §7 (NEW).]
- G. The effect that maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike and in diverting vehicular traffic off or away from the turnpike; [1995, c. 504, Pt. C, §7 (NEW).]
- H. The proportionate usage of the state highway system by vehicles using the turnpike and vehicles not using the turnpike; [1995, c. 504, Pt. C, §7 (NEW).]
- I. Vehicle classification and travel characteristics; [1995, c. 504, Pt. C, §7 (NEW).]
- J. Origins and destinations of trips; [1995, c. 504, Pt. C, §7 (NEW).]
- K. Fuel type and consumption; [1995, c. 504, Pt. C, §7 (NEW).]
- L. Existing sources of revenue; and [1995, c. 504, Pt. C, §7 (NEW).]

M. Any other factors considered relevant, including, but not limited to, expert opinion. [1995, c. 504, Pt. C, §7 (NEW).]

[2011, c. 302, §15 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1981, c. 698, §§103-105 (AMD). 1987, c. 457, §§6,7 (AMD). 1987, c. 793, §A8 (AMD). IB 1991, c. 1, §8 (AMD). 1991, c. 9, §§E16,17 (AMD). 1993, c. 410, §MM9 (AMD). 1993, c. 680, §A26 (AMD). 1995, c. 504, §C7 (AMD). 2011, c. 302, §15 (AMD).

§1975. PROVISIONS IN CASE OF DEFAULT ON BONDS

Except as may otherwise be provided in a bond resolution or trust indenture or loan or security agreement, in the event that the authority shall default in the payment of principal or interest on any of its bonds after the principal or interest falls due and that default shall continue for a period of 60 days or shall default in any other agreement with the bondholders or with a trustee under a trust indenture or loan or security agreement, the holders of 25% in aggregate principal amounts of the bonds then outstanding by instrument filed in the office of the Secretary of State duly acknowledged may appoint a trustee to represent the bondholders for the purpose provided in this section. The trustee may upon the written request of the holders of 25% in principal amount of the bonds then outstanding: [1981, c. 595, §3 (NEW) .]

1. Enforcement of rights of bondholders. By mandamus or other suit, action or proceeding at law or in equity enforce the rights of the bondholders;

[1981, c. 595, §3 (NEW) .]

2. Suit upon bonds. Bring suit upon the bonds;

[1981, c. 595, §3 (NEW) .]

3. Enjoinment of acts or other things. Enjoin any acts or other things which may be unlawful or in violation of the rights of the bondholders; or

[1981, c. 595, §3 (NEW) .]

4. Require accounting. By action or suit in equity require the authority to account as if it were trustee of an expressed trust for the bondholders. The trustee shall be entitled, as a right, to the appointment of a receiver who may, to the extent that the authority could itself do, enter and take possession of the facilities of the authority or any part thereof, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default, and operate and maintain the same and collect and receive all revenue thereafter arising therefrom in the same manner as the authority might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any revenues and receipts derived from the turnpike, the revenues and receipts from which are or may be applicable to the payment of the bonds so in default. The trustees shall, in addition, have and possess all the powers necessary and appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of the bondholders in the enforcement and protection of their rights. Except as may otherwise be provided in a bond resolution or trust indenture or loan or other security agreement, in addition to other rights and limitations

any bondholder shall have the right by mandamus or other suit, action or proceeding in law or in equity to enforce his rights against the authority, including the right to require the authority to carry out any agreement or covenant and to perform its duties under this chapter.

[1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1976. INTERIM CERTIFICATES

Prior to the issuance of any bonds, the authority may issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for the bonds when issued. [1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1977. TRUST FUNDS

Subject to any agreement with the bondholders, all revenue received from the operation of the turnpike after deducting expenditures required for the construction, reconstruction, operation and maintenance of the turnpike and for the payment of the principal and the interest on the bonds of the authority or otherwise in accordance with the provisions thereof, and after deducting the amount provided to the department pursuant to section 1961, subsection 7, must be held and invested by the authority to establish trust funds for reserve and sinking funds for the retirement of bonded indebtedness. [2011, c. 302, §16 (AMD) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). IB 1991, c. 1, §9 (AMD). 2011, c. 302, §16 (AMD).

§1978. TERMINATION OF THE AUTHORITY

The authority shall not be dissolved until such time as: [1981, c. 595, §3 (NEW) .]

1. Legislature provide for termination. The Legislature shall provide for its termination; and

[1981, c. 595, §3 (NEW) .]

2. Payment of bonds, premiums and interest. All bonds, the premium, if any, and the interest thereon shall have been paid or a sufficient amount for the payment of all bonds and the interest to maturity or prior redemption date thereon shall have been irrevocably set aside in trust for the benefit of the bondholders.

[1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1979. GOVERNMENTAL FUNCTIONS

It is declared that the purposes of this chapter are public and that the authority shall be regarded as performing a governmental function in the carrying out of the provisions of this chapter. [1981, c. 595, §3 (NEW) .]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1980. PENALTIES

Regulatory rules and laws shall be observed as follows. [1981, c. 595, §3 (NEW).]

1. Traffic infraction. Except as provided in subsection 1-A, a violation of published rules relating to the turnpike or its use or services is a traffic infraction and is punishable by a fine of not more than \$500.

[2003, c. 452, Pt. L, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Criminal violations. The following violations of published rules relating to the turnpike or its use or services are crimes.

A. A person who operates a motor vehicle at a speed that exceeds, by 30 miles per hour or more, the speed fixed by the authority commits a Class E crime. [2003, c. 452, Pt. L, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who fails or neglects to pay tolls, fares or charges for use of the turnpike commits a Class E crime. [2003, c. 452, Pt. L, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

These crimes are strict liability crimes as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. L, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Criminal acts and civil violations. The Revised Statutes, and amendments thereto, and the decisions of the courts of the State, shall apply to criminal acts and civil violations committed on the turnpike.

[1981, c. 595, §3 (NEW) .]

2-A. Toll violations. In addition to potential criminal liability under subsection 1-A, the registered owner of a vehicle may be liable for civil penalties for failure to pay a toll as set out in this subsection.

A. If an operator of a vehicle fails to pay a toll, the registered owner of that vehicle is liable for payment of the toll and is subject to a civil penalty of:

- (1) Fifty dollars, except as provided in subparagraph (2) or (3);
- (2) One hundred dollars, if a failure to pay a toll occurs within 18 months of a prior failure to pay;
or
- (3) One hundred fifty dollars, if a failure to pay a toll occurs within 18 months of 2 or more prior failures to pay. [2003, c. 591, §2 (RPR).]

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Administrative fee" means the fee imposed pursuant to paragraph C, subparagraph (4).
- (2) "Electronic toll collection system" means a system of collecting tolls or other charges that is capable of charging an account holder the appropriate amount by transmission of information between a device on a motor vehicle and a toll collection facility.
- (3) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by any other means of payment approved by the authority at the time.
- (4) "Photo-monitoring system" means a motor vehicle sensor installed to work in conjunction with a toll collection facility that automatically produces a photograph, microphotograph, videotape or other recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.
- (5) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate.

(6) "Toll" or "tolls" means tolls or other charges prescribed by the authority for use of the turnpike or for other services provided to a turnpike patron under section 1965, subsection 1, paragraph V.

(7) "Violation clerk" means an employee of the authority designated by the authority to enforce violations and adjudicate appeals relating to those violations under this subsection. [2003 , c . 591 , §2 (RPR) .]

C. The following procedures must be followed for the collection of tolls, administrative fees and civil penalties under this subsection.

(1) The authority shall send a notice of liability by first class mail to a person alleged to be liable as a registered owner under this subsection. The notice must be sent to the address of the registered owner on record with the authority if the registered owner is an electronic toll collection patron of the authority or, if no such record exists, the address of the registered owner on record with the Secretary of State. A written statement by the authority that the notice of liability has been mailed is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the failure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure. The notice must also include the name, address and telephone number of the violation clerk responsible for enforcing the penalty for the failure to pay.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses and may result in revocation of the registration certificate and plates issued for the vehicle.

(4) Within 30 calendar days after the date of the issuance of the notice of liability, the registered owner to whom the notice is issued must:

(a) Pay the amount of the toll for which the person is liable, the civil penalty or penalties provided for in paragraph A and an administrative fee of \$20 for each toll for which the person is liable but has not paid;

(b) Send a written dispute by mail to the violation clerk named in the notice, as provided by paragraph I; or

(c) Request a hearing with the violation clerk named in the notice as provided by paragraph J. [2011 , c . 476 , §5 (AMD) .]

D. Except as provided in paragraph E, it is not a defense to liability under this subsection that a registered owner was not operating the motor vehicle at the time of the failure to pay. [2003 , c . 591 , §2 (RPR) .]

E. Defenses to liability under this subsection are as set out in this paragraph.

(1) If a person other than the registered owner of the motor vehicle is adjudicated criminally or civilly responsible for the failure to pay a toll, then the registered owner is not liable under this subsection.

(2) If the registered owner of the motor vehicle is the lessor of motor vehicles and at the time of the failure to pay an authority toll the motor vehicle was in the possession of a lessee and the lessor provides the authority with a copy of the lease agreement containing the information required by Title 29-A, section 254, then the lessee, and not the lessor, is liable under this subsection.

(3) If the motor vehicle is operated using a dealer or transporter registration plate and at the time of the failure to pay the motor vehicle was under the custody or control of a person other than the dealer or transporter, and if the dealer or transporter provides the authority with the name and address of the person who had custody or control over the motor vehicle at the time of the failure to pay, then that person and not the dealer or transporter is liable under this subsection.

(4) If a report that the motor vehicle was stolen is given to a law enforcement officer or agency before the failure to pay occurs or within a reasonable time after the registered owner becomes aware of the theft, then the registered owner is not liable under this subsection. [2003, c. 591, §2 (RPR).]

F. Nothing in this subsection may be construed to limit the liability of an operator of a motor vehicle for a failure to pay an authority toll. If a person who is liable for a failure to pay under this subsection was not the operator of the motor vehicle at the time of the failure to pay, that person may maintain an action for indemnification against the operator to recover all tolls, administrative fees and civil penalties paid by that person under this subsection. [2003, c. 591, §2 (RPR).]

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if a registered owner:

- (1) Does not dispute a notice of liability or pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);
- (2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final decision of a violation clerk as provided in paragraphs I and J;
- (3) Does not pay the required tolls, administrative fees and civil penalties within 30 days of final adjudication of liability under paragraph K; or
- (4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of final adjudication of liability by an away agency with whom the authority has a reciprocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by first class mail informing the registered owner of the pending suspension. [2011, c. 476, §6 (AMD).]

H. [2011, c. 476, §7 (RP).]

I. The registered owner may, without waiving the right to a hearing before a violation clerk as provided by paragraph J and also without waiving the right to judicial review as provided by Title 5, chapter 375, subchapter 7, appeal a notice of liability as provided by paragraph C, subparagraph (4) and receive a review and disposition of the violation from a violation clerk by mail. The appeal by mail must contain a signed statement from the registered owner explaining the basis for the appeal. The signed statement may be accompanied by signed statements from witnesses, police officers, government officials or other relevant parties or photographs, diagrams, maps or other relevant documents that the registered owner determines appropriate to submit. Statements or materials sent to a violation clerk for review must have attached to them the name and address of the registered owner as well as the number of the notice of liability and the date of the violation. All information submitted by the registered owner becomes part of the violation record. The violation clerk shall, within 60 days of receipt of such material, review the material and dismiss or uphold the violation and notify the registered owner of the disposition of the hearing in writing by mail. If the appeal by mail is denied, the violation clerk shall explain the reasons for the determination. The review and disposition handled by mail is informal, the rules of evidence do not apply and the decision is final, subject to the hearing provisions of paragraph J. [2003, c. 591, §2 (NEW).]

J. As provided by paragraph C, subparagraph (4) or within 30 days of the issuance of a decision by a violation clerk under paragraph I, a registered owner may make a written request for an appeal hearing before a violation clerk designated by the authority. The violation clerk shall then notify the registered owner in writing by certified mail, return receipt requested of the date, time and place of the hearing. The

hearing is informal, the rules of evidence do not apply and the decision of the violation clerk is final. The violation clerk shall notify the parties in person or by mail of the decision following the hearing. Each written appeal decision must contain a statement of reasons for the decision including a determination of each issue of fact necessary to the decision. Failure to appear at the date, time and place specified on the hearing notice automatically results in the denial of the appeal. [2003, c. 591, §2 (NEW).]

K. Any decision by a violation clerk under this section is subject to judicial review of final agency action in the manner provided by Title 5, chapter 375, subchapter 7. If a registered owner files an appeal pursuant to this subsection, the authority may not notify the Secretary of State to suspend the registration certificate and plate issued for the vehicle involved in the alleged failure to pay until the appeal is resolved. [2003, c. 591, §2 (NEW).]

[2011, c. 476, §§5-7 (AMD).]

2-B. Admissibility of photo-monitoring evidence. A photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring device is admissible in a proceeding to collect a toll or other charge of the authority, to collect civil penalties imposed under subsection 2-A or to impose civil or criminal liability for a failure to pay the toll or charge.

A. An original or facsimile of a certificate, sworn to or affirmed by an agent of the authority that states that a failure to pay has occurred and states that it is based upon a personal inspection of a photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring system, as defined in subsection 2-A, is prima facie evidence of the facts contained in the certificate. [1993, c. 698, §2 (NEW).]

B. A photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. This material is confidential and is not available to the public or to any person employed by the authority whose duties do not require access to the material. The authority shall make this information available to a law enforcement officer upon request and may share this information with other toll administrative agencies as provided in section 1982. Except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph F or to prosecute a criminal offense, this material may not be used in a court in an action or proceeding. [2011, c. 302, §18 (AMD).]

C. A photograph, microphotograph, videotape or recorded image obtained from a photo-monitoring system as defined in subsection 2-A may not be used by the authority for the purposes of collection of a toll or other charge if the photograph, microphotograph, videotape or recorded image shows the face of a passenger or driver of a motor vehicle. [2003, c. 591, §3 (NEW).]

This subsection takes effect July 1, 1995.

[2011, c. 302, §18 (AMD).]

2-C. Reciprocity with away agencies. The authority may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the authority may collect the civil penalties and tolls properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

A. The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the authority and does, in fact, reciprocate in collecting penalties and tolls of the authority by employing sanctions that include denial of a person's right to register or reregister a motor vehicle; [2011, c. 302, §19 (NEW).]

B. The penalties, exclusive of tolls, claimed by the away agency against an owner of a motor vehicle registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations; [2011, c. 420, Pt. H, §1 (AMD); 2011, c. 420, Pt. H, §2 (AFF).]

C. The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner; [2011, c. 302, §19 (NEW).]

D. An owner of a motor vehicle registered in this State may present evidence to the away agency or to the authority by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and [2011, c. 420, Pt. H, §1 (AMD); 2011, c. 420, Pt. H, §2 (AFF).]

E. The reciprocal collection arrangement between the authority and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles. [2011, c. 302, §19 (NEW).]

[2011, c. 302, §19 (NEW); 2011, c. 420, Pt. H, §1 (AMD); 2011, c. 420, Pt. H, §2 (AFF) .]

3. Rules. This section shall not affect the power of the authority to make rules governing use of the turnpike, or the power to prescribe limitations on the speed, volume and weight of vehicles using the turnpike, as granted to the authority by this chapter.

[1981, c. 595, §3 (NEW) .]

4. Other collection procedures. Nothing in this section prevents the authority from collecting payment for use of the turnpike or any other service in connection with the turnpike by action at law or in equity.

[2003, c. 452, Pt. L, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1981, c. 595, §3 (NEW). 1993, c. 698, §2 (AMD). 1995, c. 65, §A64 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 339, §2 (AMD). 2001, c. 154, §§1-4 (AMD). 2001, c. 473, §1 (AMD). 2003, c. 452, §§L4-6 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 591, §§2,3 (AMD). 2011, c. 302, §§17-19 (AMD). 2011, c. 420, Pt. H, §1 (AMD). 2011, c. 420, Pt. H, §2 (AFF). 2011, c. 476, §§5-7 (AMD).

§1981. EFFECTIVE DATE

This chapter shall take effect when approved, except that the authority may not, at any time before any bonds outstanding on the effective date and the interest thereon shall have been paid or a sufficient amount for the payment of any such bonds, premium, if any, and the interest to maturity or prior redemption date thereon shall have been irrevocably set aside in trust for the benefit of the bondholders, provide any funds to the Department of Transportation for the construction, reconstruction, maintenance or repair of access roads. [1981, c. 595, §3 (NEW).]

SECTION HISTORY

1981, c. 595, §3 (NEW).

§1982. CONFIDENTIALITY OF AUTHORITY RECORDS

A log or record identifying the name, address or travel patterns of a patron of the turnpike, whether prepared for enforcement of authority tolls or other purposes of the authority, is for the exclusive use of the authority in the discharge of its duties under this chapter. This material is confidential and is not available to the public except that a law enforcement officer or a representative of an insurance company making a request for specific records in the course of conducting the officer's or representative's business may have access to this material to the extent and in the manner access to such material is afforded under Title 1, chapter 13, subchapter I. The authority may release accident and other incident reports to affected parties and may release information specific to a commuter pass account or commercial billing account to the holder of that account.

The authority may disclose patron information, including information gathered by photo-monitoring devices, to other toll administrative agencies that are participating with the authority in multiple-facility, electronic, transportation-related collection systems. [2001, c. 473, §2 (AMD).]

SECTION HISTORY

1995, c. 339, §3 (NEW). 2001, c. 473, §2 (AMD).

§1983. INTEREST RATE AGREEMENTS

The authority is authorized to enter from time to time into agreements with another party, on terms and conditions that the authority determines are necessary or convenient, in which the authority agrees to make a payment to, or to receive a payment from, the other party based on a comparison at a future date between an interest rate specified on the date of the agreement and a rate derived on or about that future date from an interest rate index. The authority is authorized to enter into any credit enhancement or liquidity agreement on terms and conditions that the authority determines are necessary or convenient for carrying out this section. [2003, c. 111, §1 (NEW).]

SECTION HISTORY

2003, c. 111, §1 (NEW).

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